



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 19 2019

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

Mr. Larry Stap, President  
Mr. Gerald Baron, Executive Director  
Save Family Farming  
P.O. Box 326  
Everson, Washington 98247

Dear Mr. Stap and Mr. Baron:

I am writing in response to the recent letter that you sent to the U.S. Environmental Protection Agency Administrator. He requested that I respond on his behalf.

In your letter, you raise concerns with the EPA's 2013 report, "Relation Between Nitrate in Water Wells and Potential Sources in the Lower Yakima Valley, Washington" (Report) and the level of peer review it received. You request that the agency allow a second peer review by the Agricultural Research Service within the United States Department of Agriculture and "remove the Yakima Nitrate Report from further enforcement and litigation pending this review." After careful review, we find that the record does not support the concerns you raise about the level of peer review of the 2013 report. However, please be assured that the EPA is not using the 2013 report for further enforcement actions. You also allege that EPA staff members have violated federal law and committed fraud to "cover up the lack of peer review." As to the allegation of fraud, we are not aware of any facts that support that charge.<sup>1</sup>

As Regional Administrator Hladick noted in his letter to you on June 19, 2019, the agency followed its peer review policy when the Report was developed. The EPA conducted both internal and external peer reviews and accepted public comment on the draft Report. Consistent with the policy articulated in the 2006 Memorandum on Peer Review and Peer Involvement at EPA, the Report's external peer review included scientists from the United States Geological Survey (USGS) and the U.S. Department of Agriculture; scientists from EPA's Office of Research and Development and EPA Region 10 conducted the internal peer review. The EPA considered the peer reviewers' comments on the EPA 2012 Report and revised the report in response to the comments.

In 2013, the EPA issued an administrative order on consent under Safe Drinking Water Act Section 1431 to protect public health in Yakima Valley. In this case, the EPA's Section 1431 action was supported by a Valley Institute for Research and Education's (VIRE) 2002 study; USGS ground water sampling that was conducted in 1992 and 2004; Washington State Department of Ecology sampling conducted as part of the Agricultural Chemical Pilot Study conducted in 1988; and the Washington State

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<sup>1</sup> If you have any remaining concerns, any member of the public may contact EPA's Office of Inspector General with concerns of fraud, waste, or abuse. For more information: <https://www.epa.gov/office-inspector-general>.

Department of health's public water supply data from 1990-2008.<sup>2</sup> These studies reflected that approximately 12% of wells sampled in the Yakima basin exceeded the federal maximum contaminant level (MCL) for nitrate of 10 mg/L during the 1990-2008 period, and 21% of the wells sampled had levels between 5 and 9.9 mg/L. The VIRE study showed that up to 40% of low-income households had nitrate levels exceeding 5 mg/L. Additional sampling done by the dairies under the 2013 order has demonstrated that 61% of private drinking water wells within one mile downgradient of their facilities exceeded the MCL for nitrate.<sup>3</sup> The data also indicate that the source control actions taken by the dairies have begun to reduce the nitrate concentrations in the groundwater.

The 2013 study no longer represents the current status of nitrates in groundwater in the Yakima basin. Accordingly, the EPA would not rely on that report for any future enforcement actions.

I hope this information clarifies the record for you. If you have any additional questions please contact Mark Pollins, Director of the Water Enforcement Division, at 202-564-4001.

Sincerely,

A handwritten signature in blue ink, appearing to read "Susan Parker Bodine", is written over the typed name.

Susan Parker Bodine

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<sup>2</sup> EPA January 21, 2010, memorandum "Findings in Support of Use of Safe Drinking Water Act Section 1431 to Address Contamination in Yakima Valley Groundwater, Washington."

<sup>3</sup> <https://www.epa.gov/sites/production/files/2017-12/documents/lower-yakima-valley-groundwater-fact-sheet-december-2014.pdf>.